

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JACK DOE,)
Plaintiff,)
v.)
PRESIDENT AND FELLOWS OF)
HARVARD COLLEGE,)
Defendant.)

)

Case No. 18-CV-12462-IT

DEFENDANT'S MOTION TO DISMISS THE COMPLAINT

Defendant President and Fellows of Harvard College ("Harvard"), by and through its undersigned counsel, hereby moves to dismiss Plaintiff's Complaint in this action pursuant to Federal Rule of Civil Procedure 12(b)(6).¹

As explained in greater detail in the accompanying Memorandum of Law in Support of this Motion, Plaintiff's Complaint does not state a claim for relief. Specifically, Plaintiff's allegations that Harvard has breached its contractual obligations to him by commencing an investigation into his off-campus sexual misconduct are directly contradicted by the plain language of the Harvard policies that are attached to the Complaint. Indeed, those policies make clear that Harvard is *expressly authorized* to conduct that very investigation, and Plaintiff's allegations to the contrary cannot survive.

¹Harvard notes that on December 18, 2018, the Court authorized the parties in this case to submit supplemental briefs regarding Plaintiff's pending request for a preliminary injunction. *See Order of December 18, 2018.* The instant Motion is Harvard's timely response to the Complaint in this case, which was served on Harvard on November 29, 2018.

WHEREFORE, Harvard respectfully requests that this Court issue an Order dismissing the Complaint in this action in its entirety.

Respectfully submitted,

/s/ Daniel J. Cloherty

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Dated: December 19, 2018

CERTIFICATE OF COMPLIANCE WITH LOCAL RULE 7.1(a)(2)

Undersigned counsel hereby certifies that on December 19, 2018, counsel for Defendant conferred with counsel for the Plaintiff regarding the relief requested herein. Plaintiff does not assent to the relief requested in this Motion.

/s/ Daniel J. Cloherty
Daniel J. Cloherty

REQUEST FOR ORAL ARGUMENT PURSUANT TO LOCAL RULE 7.1(d)

Pursuant to Local Rule 7.1(d), undersigned counsel requests oral argument to assist the Court in deciding the issues presented.

/s/ Daniel J. Cloherty
Daniel J. Cloherty

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as nonregistered participants on December 19, 2018.

/s/ Daniel J. Cloherty
Daniel J. Cloherty